

Decision Record

Determination of NEPA Adequacy (DNA)

DOI-BLM-NV-W010-2013-0035 –DNA

Rye Patch Fire Station

I have reviewed this Documentation of Land Use Plan Conformance and Determination of NEPA Adequacy (DNA) and have determined that the proposed action is in conformance with the approved land use plan (Sonoma-Gerlach Management Framework Plan, approved July 9, 1982).

The BLM requests a right-of-way for the construction of a BLM fire station on public lands located within T.30N., R.33E., MDM, section 16, W2SWSWNE within the county of Pershing, Nevada (see location maps attached). The proposed action encompasses 5 acres within the 160 acre parcel in public ownership described above. Appropriate and applicable permits, right-of ways and easements will be obtained as described in the proposed action in the DNA. The water well will be constructed in accordance with Nevada water law.

On the basis of the information contained in the DNA, it is my determination that implementation of the proposed action will not have environmental impacts beyond those already addressed in the following Environmental Assessments (EA):

Black Rock NCA Administrative Facility Environmental Assessment
(DOI-BLM-W030-2010-002-EA) Dec. 2009. FONSI 12/31/09, DR 12/31/09

Midas Fire Station Environmental Assessment
(BLM/EK/PL-2002/016) March, 2002. FONSI 4/9/2002, DR 4/9/2002

McDermitt Fire Station Environmental Assessment
(NV-020-EA-90-31) Aug. 1990. FONSI 8/23/1990, DR 8/23/1990

PUBLIC OUTREACH

Scoping was conducted during the month of July, 2013 in order to solicit input on the project. Substantive comments pertaining to the design features were considered and incorporated into the proposal.

COORDINATION AND CONSULTATION

One of the primary stakeholders is the Humboldt River Ranch Association (HRRA). Since the project will essentially live “in the neighborhood” of the HRRA, the BLM has reached out in order to provide up front coordination with the HHRA. The BLM will continue to coordinate with the HHRA throughout the remainder of the planning and construction phases of the project.

Formal Native American Consultation has not been requested by any of the affected tribes. The Ft. McDermitt Paiute and Shoshone Tribe, the Lovelock Paiute Tribe and the Summit Lake Paiute Tribe were individually presented the project either via formal letter and/or during normal coordination meetings. The BLM requested the tribes to provide notification on any formal consultation desired. Letters were sent on June 25, 2013. No requests have been made to date.

PROJECT COMMITTED DESIGN FEATURES

Design features identified in the EA's listed above have been considered in the development of the design features of this proposal. Additional design features were identified by the Interdisciplinary Team and through scoping efforts are incorporated. Any authorization of the proposed action is subject to implementation of the following design features.

Cultural Resources: Respect for all cultural resources will be maintained. Any BLM personnel or contractors working on all aspects of the project will be informed about the need to protect cultural resources and the penalties involved in the collection or deliberate destruction of historic and prehistoric artifacts and features. Any cultural resource discovered on public or private lands that are part of the federal undertaking by any employee, contractor, sub-contractors or any person working on their behalf will be left in place and immediately reported to the BLM. In the case of human remains that might be inadvertently discovered in the process of conducting the proposed project, all appropriate Federal laws will be followed. If discovered human remains were encountered, construction near the location of the finds will be halted and consultation with Native American tribes in the area will be initiated. The contractor will suspend all operations in the immediate area of such discovery of human remains or cultural resources until written authorization to proceed were issued by the BLM. An evaluation of the discovery will be made by the BLM to determine appropriate actions to prevent the loss of significant cultural values.

Invasive Species: All construction vehicles will be required to be fully washed, including the undercarriages, prior to entry into the project area to remove seeds of undesirable plants. The station site will be inspected on a regular basis for the presence of noxious weeds and/or invasive non-native species. Approved control and eradication methods will be used if any are found.

Soils: Suitable topsoil removed in conjunction with clearing and stripping will be conserved in stockpiles at appropriate locations within the right-of-way reservation. Topsoil will be uniformly spread over unoccupied disturbed areas, particularly in areas of landscaping.

Air Quality: During all phases of road construction a water truck will be on site to mitigate and reduce fugitive dust.

Wildlife – Migratory Birds: For any proposed actions that are not performed outside of the migratory bird breeding season (March 1 — August 31), a migratory bird nesting survey will be conducted in potential habitat areas no more than 10 days and no less than 3 days prior to initiation of disturbance. If active nests are located, a minimum 260 ft. protective buffer will be established or activities delayed until the birds have completed nesting and brood-rearing activities.

Visual Resources: Building materials and colors will be considered for permanent structures that are compatible with the surrounding environment. Construction of all facilities will utilize

screening on proposed stationary lights and light plants. Lighting will be directed onto the pertinent site only and away from adjacent areas not in use. Safety and proper lighting of the active work areas will be the primary goal. Lighting fixtures will be hooded and shielded appropriately. Light pollution will be minimized by utilizing “Dark Sky” practices.

Exterior Design Considerations: Exterior design considerations will include screening of the warehouse-storage yard area with fence materials that reduce visibility; use of natural surfaces for parking areas and driveways. Xeriscape landscaping will be incorporated into the station’s landscaping with native shrubs and herbaceous vegetation.

Green Building Technologies: The project is required to be Leadership in Energy and Environmental Design (LEED™) certified and meet the requirements of Executive Order 13423, January 24, 2007, which stipulated that Federal buildings shall exceed the requirements of ASHRAE 90.1 by 30%. This is also in keeping with BLM directives that energy conservation and sustainable design be incorporated into all new buildings.

Hazardous Materials: Sewage from the facility will be disposed of onsite using a septic tank – leach system designed and operated to meet current health, safety, and environmental regulations. Periodically, solid wastes from the septic tank will be removed and disposed of at an approved treatment facility. Spill kits will be maintained onsite to provide prompt response to accidental leaks or spills of chemicals and petroleum products. Bulk fuel storage and vehicle maintenance activities (i.e., oil changes) will not be conducted at the facility. Secondary containment structures will be provided for all chemical and petroleum/oil storage areas during construction and operation of the facility.

AUTHORITY

1. Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. §§ 1701) as amended.
Sec. 507. [43 U.S.C. 1767] (a) The Secretary concerned may provide under applicable provisions of this title for the use of any department or agency of the United States a right-of-way over, upon, under or through the land administered by him, subject to such terms and conditions as he may impose.
2. Rights-of-Way under the FLPMA (43 CFR 2800) et. Seq.
Allows for ROWs for facilities on public lands that are in the public’s interest.

APPEAL PROVISIONS

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Derek Messmer, Field Manager, Humboldt River Field Office, Winnemucca District, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Attached Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890.

Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.47I(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- 1) The relative harm to the parties if the stay is granted or denied;
- 2) The likelihood of the appellant's success on the merits;
- 3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- 4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

/s/ Derek Messmer

Authorized Official: _____
Derek Messmer, Field Manager, Humboldt River Field Office

Date: 9/16/13